

REMARKS

The above-identified patent application has been amended and reconsideration and re-examination are respectfully requested.

The Examiner added an objection to the drawings as failing to comply with 37 CFR 1.84(p)(5) because they fail to include certain reference designations.

Applicants have amended the drawings and with corresponding amendments made to the specification in the previous response has overcome the objection.

Applicant has submitted drawing changes indicated below with changes noted in red. Approval of the drawing changes is requested so that applicant can submit substitute drawings upon an indication of allowable subject matter.

Applicants have amended FIGS. 1 and 2B to show elements referred to in the specification and to correct reference designations in the drawings. Applicants have amended FIG. 1 to change the reference designations of 22b to 22a and 22a to 22b, deleted OCF 25 and the arrow associated therewith at the bottom of FIG. 1 and deleted designation 12g. Applicants have moved reference designation 12 to the arrow.

With respect to FIG. 2B, Applicants have added an indicia of the "update manager process 26e" and has modified the reference designations of the locked/crossed manager and the odd lot manager to 26f and 26g, respectively.

Applicants have also corrected on FIG. 2A the designation of interface 27. Applicants note that in FIG. 1 Applicant describes a "order collector facility" 20 and a "order collector facility process" 25 which resides in memory 22b. Applicants believes these drawings are now correct.

The Examiner rejected claims 16-17 under 35 U.S.C. 112, second paragraph, as being indefinite.

Applicants have amended claims 16 and 17 to make them depend from claim 11 and has amended claim 12 to recite "The" system of claim 11.

The examiner rejected claims 1-18 under 35 USC § 102(e) as being anticipated by Martyn et al.

Applicant's claim 1 now recites ... receiving an order from a customer of a market participant. Claim 1 also calls for ... checking if a market participant identification associated with the order of the customer matches a market participant identification representing a quote in the system which is at the best bid or best offer price in the system.. Claim 1 also recites that if the market participant identification matches a market participant identification representing a quote in the system, matching-off the customer order against the one of the best bid or best offer that is at the opposite side of the market irrespective of any other priority established for matching orders in the system.

The Examiner relied upon Martyn for teaching to match quotes of best bid/offer price by market participant identification. However, Martyn does not teach or suggest checking if a market participant identification associated with the order of the customer matches a market participant identification representing a quote and matching-off the customer order against the one of the best bid or best offer that is at the opposite side of the market irrespective of any other priority established for matching orders in the system. The preferential order disclosed by Martin does not involve a process that will match-off a market participant identification representing a quote in the system with a customer order if that quote is at the opposite side of the market irrespective of any other priority established for matching orders in the system. The preferenced order allows a user to preference an order to a particular market maker. This does not involved the system determining whether a received customer order can be executed against a market maker irrespective of priority established in the system. A preferential order is designated as such by the user at entry time. There is no match determined of market participant identifications associated with a quote or with a received order. Rather, to the extent that preferential orders can be construed as checking market maker identifications of quotes in the system, it is done before or as the order is entered by the action of preferencing the order.

Applicant has cancelled claim 2. Claims 3-10 recite additional distinctive features, and are distinct over Martyn for the general reasons discussed of record.

The examiner rejected claims 1-18 under 35 USC § 102(b), as being anticipated by Kalmus et al.

Claim 1 also calls for ... checking if a market participant identification associated with the order matches a market participant identification representing a quote in the system which is

at the best bid or best offer price in the system. Claim 1 also recites that if the market participant identification matches a market participant identification representing a quote in the system, matching-off the customer order against the one of the best bid or best offer that is at the opposite side of the market irrespective of any other priority established for matching orders in the system.

Kalmus et al. does not suggest, these features of claim 1.

The Examiner takes the position that Kalmus inherently discloses checking market participant identification..., matching of market participant identification with best bid/offer "in those instances in which market maker/specialist submits an order in a security in which that party is a principal." There is not any basis in Kalmus for the examiner to rely upon the doctrine of inherency to teach that checking is performed to see if a customer order belongs to a market participant that is at the inside market (best bid/best offer) and to route or execute the customer order with the that market participant because the customer order belongs to the market participant's customer. This feature is expressed by "checking if a market participant identification associated with the order ... and if the market participant identification matches ... matching-off the customer order," as recited in claim 1.

Applicant's claims 3-18 distinguish over Kalmus for the general reasons discussed of record.

The examiner rejected claims 1-18 under 35 USC § 103 as being obvious over Gutterman et al.

The Examiner relied upon Gutterman for suggesting to match quotes of best bid/offer price by market participant identification as disclosed in claim 1. Gutterman neither describes nor suggests ... checking if a market participant identification associated with the order from the customer matches ... and if the market participant identification matches ... matching off the customer order against the one of the best bid or best offer that is at the opposite side of the market irrespective of any other priority established for matching orders in the system.

Column 5, line 9 does not teach or suggest using the market participant identification in anyway to match quotes of bet bid/offer price. Nowhere in the Gutterman is it taught or suggested to check the market participant identification for determining a match between orders and quotes. The system disclosed in Gutterman would not provide incentive for interpreting or

Applicant : Peter Martyn et al.
Serial No. : 09/404,518
Filed : September 23, 1999
Page : 8

Attorney Docket No.: 09857-030001

suggesting internal matching or netting of market participant orders against a market participant's book as a means of maintaining a market in a particular security.

Applicant's claims 3-18 distinguish over Kalmus for the general reasons discussed of record.

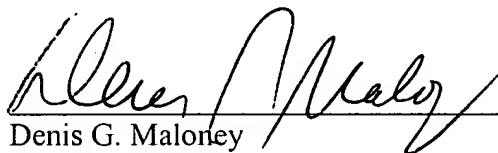
Accordingly, claims 1-18 are now allowable over the art of record. Entry of this amendment is in order since it places the application in condition for allowance or better form for appeal by materially reducing the issues on appeal and does not require a new search by the examiner. Thus, reconsideration and reexamination are requested. Attached is a marked-up version of the changes being made by the current amendment.

Applicant asks that all claims be allowed. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: _____

12/21/2001



Denis G. Maloney
Reg. No. 29,670

Fish & Richardson P.C.
225 Franklin Street
Boston, Massachusetts 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

Version with markings to show changes made

In the specification:

The paragraph beginning at page 11, line 22 was replaced with following rewritten paragraph:

The current quote montage 204 of the window 200 without agency quotes is similar to the long existing Nasdaq display montage, whereas the current quote montage 204 with the agency quotes as depicted in FIG. 9 is similar to that shown in U.S. Patent Application Serial No. 09/208,942, filed on December 12, 1998 entitled "DUAL QUOTE MARKET SYSTEM" (pending) by Richard G. Ketchum et al. and assigned in part to the assignee of the present invention.

In the Claims

Claim 2 was canceled.

Claims 1, 3, 6, 7, 9-12, 16-18 were amended.

(Amended) 1. A method of executing an order in a market system comprises:

receiving an order from a customer of a market participant; [and]

for the order, checking if a market participant identification associated with the order from the customer matches a market participant identification representing a quote in the system which is at the best bid or best offer price in the system; and if the market participant identification matches the market participant identification representing a best bid or offer quote in the system,

matching off the customer order against the one of the best bid or best offer that is at the opposite side of the market irrespective of any other priority established for matching orders in the system.

(Amended) 3. The method of claim 1 [further comprises:] wherein matching-off the order without regard to any priority is with respect to a time priority of other quotes in the

system, [against the one of the best bid or best offer that is] at the opposite side of the market to the customer order.

(Amended) 6. The method of claim 1 further comprises routing the order to a market participant corresponding to said market participant that has the one of the best bid or best offer that is at the opposite side of the market.

(Amended) 7. The method of claim 1 wherein the customer order [received from the market participant] is checked against proprietary quotes and agency quotes of [said] a market participant identification representing a quote in the system which is at the best bid or best offer.

(Amended) 9. The method of claim 1 wherein receiving a[n] customer order [from a market participant] further comprises:
receiving the order [from the market participant] via an order execution system.

(Amended) 10. The method of claim 1 wherein receiving a[n] customer order [from a market participant] further comprises:
receiving the order [from the market participant] via a negotiation order entry system.

(Amended) 11. A market system comprises:
an order execution process that receives orders and matches orders against quotes posted in the system on a time priority basis;
an order match-off process that checks if a market participant identification associated with a received customer order matches a market participant identification representing a quote in the system that is at the best bid or best offer price in the system.

(Amended) 12. [A] The system of claim 11 wherein the order match-off process further comprises:

a process to execute the order against the one of the best bid or best offer that is at the opposite side of the market.

(Amended) 16. The system of claim 11 further comprising:
a process to request a cancellation of a quote at the side of the market in which an internalized order will be executed.

(Amended) 17. The system of claim 11 further comprising:
a routing process to route an order to a market participant corresponding to the participant that has the one of the best bid or best offer that is at the opposite side of the market.

(Amended) 18. A computer program product for operating a market system comprises instructions for causing a computer to:
receive orders and match[es] orders against quotes posted in the system on a time priority basis;
check if a market participant identification associated with a received customer order matches a market participant identification representing a quote in the system that is at the best bid or best offer price in the system.